

APPEAL NO. 021115  
FILED JUNE 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 16, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; that he had disability from November 2, 2001, through the date of the hearing; and that the appellant (carrier) did not timely contest compensability in accordance with Section 409.021, nor base its untimely contest on evidence that could not have reasonably been discovered at an earlier date and, therefore, has waived its right to contest compensability. On appeal, the carrier contends that these determinations are against the great weight and preponderance of the evidence. The appeal file contains no response from the claimant.

DECISION

Affirmed.

Conflicting evidence was presented on the disputed issues in this case. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the factual findings of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300  
IRVING, TEXAS 75063.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Roy L. Warren  
Appeals Judge